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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,997	12/19/2001	Chris R. Franklin		1881

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EXAMINER

TSAI, SHENG JEN

ART UNIT PAPER NUMBER

2186

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/033,997

Applicant(s)

FRANKLIN ET AL.

Examiner

Sheng-Jen Tsai

Art Unit

2186

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see below. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-11.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Original claim 2 recites the limitation of "allocating the spare space on a dedicated spare disk drive," while the proposed new claims 12-13 recite the limitation of "the spare space is allocated on a dedicated spare drive of the first disk drive array." It should be noted that additional limitation of "of the first disk drive array" is imposed on proposed new claims 12-13, and their scope is not the same as that of claim 2. this would necessitate further search to determine the allowability, and hence will not be entered.

claims 1 and 9 are amended with the limitation of "initializing the spare space to all zero data," which originally was recited in claim 5, which has been canceled.

Applicants contend that the prior art (Verdoorn, Jr., US 5,524,204) fails to teach this limitation. The examiner disagrees with this assessment. Verdoorn teaches that "the array controller writes zeros to all physical blocks for data and parity of the M expansion DASDs (column 5, lines 44-45)." Note that the M expansion DASDs are the spare disks (see figure 1).

Therefore, the examiner's position regarding claims 1 and 9, and those claims depending from them, remains the same as stated in the Final Office Action.

Applicants contend that, for claim 2, the prior art (Jacobson et al., US 5,615,352) fails to teach the limitation of "allocating the spare space on a dedicated spare disk drive." The examiner disagrees with this assessment.

Applicants admit that Jacobson et al. teach that "to enlarge the storage capacity of the data system, one or more spare disks are plugged into the available bays ... (column 11, lines 20-23)," but contend that "the spare disk of Jacobson is not a dedicated spare disk drive of the original RAID set." However, claim 2 simply recites "allocating the spare space on a dedicated spare disk drive" and is silent about that the "a dedicated spare disk drive of the original RAID set." Thus the teaching from Jacobson et al. is right on the target.

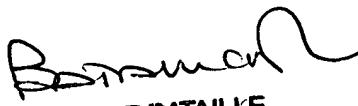
Applicants contend that, for claim 4, the prior art (Jacobson et al., US 5,615,352) fails to teach the limitation of "new data be mapped redundantly." The examiner disagrees with this assessment.

Figures 7-12 clearly show that both old and new data has their associated redundant information (the P stands for parity) mapped on the disk array.

Applicants contend that, for claim 7, the prior art (Verdoorn, Jr., US 5,524,204) fails to teach the limitation of "initializing at least one new disk drive." the examiner disagrees with this assessment.

Figures 3A-3C of Verdoorn clearly illustrate the initialization procedures of the disk drive array.

Therefore, the examiner's position regarding all claims remains the same as stated in the Final Office Action.

  
PIERRE BATAILLE  
PRIMARY EXAMINER  
8/25/05